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UNCLAS OTTAWA 001305

SIPDIS

SENSITIVE

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CALGARY PASS TO WINIPEG

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SUBJECT: Canada's Response to the 2005 Special 301 Report

1. (SBU) Summary: Economic officers met with Doug George, director of IPR issues, and other officials at International Trade Canada (ITCAN) to inform them of the Special 301 decision and deliver reftel points. While rejecting the Special 301 process as a whole and disappointed with this year's result, ITCAN officials expressed willingness to work bilaterally to address IPR issues. End summary.

2. (SBU) ITCAN officials expressed "disappointment" with USTR's decision to keep Canada on the Special 301 Watch List and institute an out of cycle review in 2005. They maintain that they are meeting all of their international agreements, and they point to recent progress on patent protection for medicines and the announcement in March of upcoming amendments to the Copyright Act as evidence of their commitment. June elections, which appear increasingly likely, may postpone progress on the copyright amendment legislation, but Canadian officials hope the process will continue as quickly as political developments allow. Canadian officials also defended their enforcement regime, but observed that the enforcement issue is receiving an increasing amount of high-level attention in the various stakeholder agencies.

3. (SBU) While questioning (as always) the validity of the Special 301 process, the Canadians are open to the idea of a working group on IPR issues. Mr. George reiterated Canada's willingness to participate in the STOP initiative and argued for an early bilateral meeting on STOP, which could also provide a forum to address bilateral concerns. He also indicated willingness to consider an IPR working group under the aegis of the Security and Prosperity Partnership. He suggested, however, that the Canadians will not be enthusiastic about an IPR working group explicitly linked to the Special 301 process, which they reject. A more cooperative approach under SPP or STOP would be more likely to engage other stakeholders in the Canadian government.

4. (SBU) Post comment and recommendation: Much of the Canadian private sector shares US industry concern about IPR protection and enforcement in Canada; among others, representatives of the Canadian Manufacturers and Exporters Association have mentioned it to us as a priority issue for their members. We believe that folding this issue into another bilateral process may be the best way to produce results and potentially avoid an adversarial dialogue that would strengthen opponents by making it into another US-Canada dispute. We recommend, as one option, an active dialogue about the substance of Canadian copyright legislation as a WIPO ratification issue in the Business Facilitation working group of the Security and Prosperity Partnership, or as a bilateral subgroup of that group. We could also address enforcement issues either as part of a STOP partnership or under the aegis of the security agenda under SPP.

Dickson